

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MARIA MARQUEZ,)	
)	
Plaintiff,)	
)	
v.)	
)	
ELDORADO CW INVESTMENTS, LTD.)	
<i>d/b/a The Car Wash Zone</i> , and ECWI, LLC,)	
)	
Defendants.)	Civil Action No. 3:21-CV-1847-C

ORDER

The Court, having considered Plaintiff's Motion for Partial Summary Judgment, along with Defendants' Response, is of the opinion that the same should be **DENIED IN PART** and **DENIED IN PART AS MOOT**.

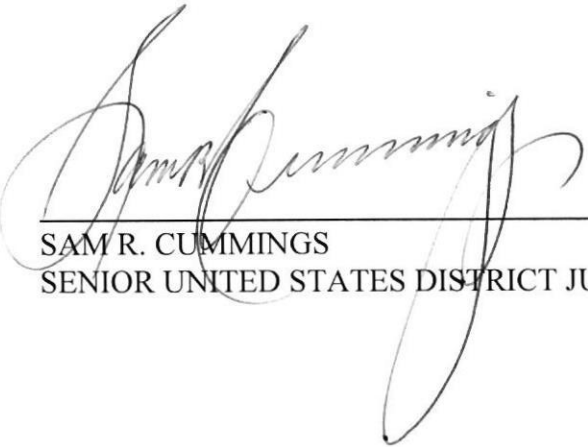
More specifically, Defendants have agreed to dismiss certain affirmative defenses based on Plaintiff's admissions. Defendants have withdrawn the following affirmative defenses: (1) conciliation; (2) statute of frauds; (3) assumption of risk; (4) res judicata; (5) collateral estoppel; (6) settlement and release; (7) accord and satisfaction; (8) estoppel (and quasi-estoppel); (9) exhaustion of remedies; and (10) laches. Thus, Plaintiff's Motion is **DENIED IN PART AS MOOT** as to these affirmative defenses.

Further, as argued by Defendants, the Court finds that genuine issues of material fact exist as to the affirmative defense of mitigation, thereby precluding summary judgment on this affirmative defense. Likewise, summary judgment is improper on the affirmative defense of

election of remedies. Thus, Plaintiff's Motion for Partial Summary Judgment is **DENIED IN PART** as to these two affirmative defenses.

SO ORDERED.

Dated January 9, 2023.



SAM R. CUMMINGS
SENIOR UNITED STATES DISTRICT JUDGE